

APPEAL,TERMED

**U.S. District Court  
District of Wyoming (Cheyenne)  
CIVIL DOCKET FOR CASE #: 2:19-cv-00143-KHR  
*Internal Use Only***

Safeway Stores 46 Inc v. WY Plaza LC  
Assigned to: Honorable Kelly H Rankin  
Case in other court: USCA, 20-08064  
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 07/10/2019  
Date Terminated: 10/20/2020  
Jury Demand: Plaintiff  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**Safeway Stores 46 Inc**

represented by **Frederick J Hahn , III**  
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V.

**Defendant**

**WY Plaza LC**

represented by **Lucas Evan Buckley**  
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Date Filed	#	Page	Docket Text
07/10/2019	<u>1</u>		COMPLAINT (1 summons issued) with Jury Demand ( Filing fee \$400 receipt #CHY031238.), filed by Safeway Stores 46 Inc. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Civil Cover Sheet, # <u>3</u> Envelope) (Court Staff, ssw) (Additional attachment(s) added on 7/11/2019: # <u>4</u> Consent Form) (Court Staff, ssw). (Entered: 07/10/2019)
07/30/2019	<u>2</u>		SUMMONS Returned Executed by Safeway Stores 46 Inc. WY Plaza LC served on 7/26/2019, answer due on 8/16/2019 (Hahn, Frederick) (Entered: 07/30/2019)
08/29/2019	<u>3</u>		NOTICE of Attorney Appearance by Lucas Evan Buckley on behalf of WY Plaza LC (Buckley, Lucas) (Entered: 08/29/2019)
08/29/2019	<u>4</u>		MOTION for Extension of Time (Non-Dispositive) requesting extension of Answer or Otherwise Plead filed by Defendant WY Plaza LC. (Attachments: # <u>1</u> Proposed Order)(Buckley, Lucas) (Entered: 08/29/2019)
08/30/2019	<u>5</u>		ORDER by the Honorable Kelly H Rankin granting <u>4</u> Motion for Extension of Time. Defendant shall answer or otherwise respond to Plaintiff's Complaint <u>1</u> on or before September 12, 2019. (Court Staff, sjh) (Entered: 08/30/2019)
09/03/2019	<u>6</u>		MOTION for John F. Kurtz, Jr. to appear pro hac vice; Check not tendered; filed by Plaintiff Safeway Stores 46 Inc. (Attachments: # <u>1</u> Affidavit of John F. Kurtz, Jr., # <u>2</u> Proposed Order)(Hahn, Frederick) (Entered: 09/03/2019)
09/03/2019	<u>7</u>		ORDER Granting <u>6</u> Motion to Appear Pro Hac Vice admitting John F. Kurtz for Safeway Stores 46 Inc by the Honorable Kelly H Rankin (Court Staff, szf) (Entered: 09/03/2019)
09/06/2019			FINANCIAL ENTRY: Payment of \$100 received for pro hac vice fee for John F Kurtz. Receipt CHY031579. (Court Staff, sjk) (Entered: 09/09/2019)
09/10/2019	<u>8</u>		ANSWER to <u>1</u> Complaint, with Affirmative Defenses, by WY Plaza LC. (Buckley, Lucas) (Entered: 09/10/2019)
09/10/2019	<u>9</u>		NOTICE of complexity by Defendant WY Plaza LC ; this case is non-complex. (Buckley, Lucas) (Entered: 09/10/2019)
09/10/2019	<u>10</u>		CORPORATE DISCLOSURE filed by WY Plaza LC. WY Plaza, LC has no corporate parents. (Buckley, Lucas) Modified on 9/10/2019 (Court Staff, szf). (Entered: 09/10/2019)
09/24/2019	<u>11</u>		STIPULATION of Consent to Trial before Magistrate Judge by Safeway Stores 46 Inc, WY Plaza LC. (Court Staff, sjlg) (Main Document 11 replaced on

		9/24/2019) (Court Staff, sjlg). (Entered: 09/24/2019)
09/25/2019	<u>12</u>	NOTICE of Initial Pretrial Conference: <b>Initial Pretrial Conference set for 10/22/2019 09:00 AM in Judge Rankin Chambers (Room No. 2204) before Honorable Kelly H. Rankin. All parties should appear by telephone, with Plaintiff's counsel initiating the call, through a conference call operator, and connecting to the Court at 307/433-2180. Parties are advised to have their calendars on hand to assist with scheduling.</b> (Court Staff, szf) (Entered: 09/25/2019)
10/22/2019	<u>13</u>	INITIAL PRETRIAL ORDERby the Honorable Kelly H Rankin. Motions filing deadline 4/27/2020. Motion response deadline 5/11/2020. <b>Dispositive Motions Hearing set for 5/27/2020 01:30 PM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b> Other Fact Witness Deadline 3/13/2020 Expert Witness Designation–Plaintiff deadline 1/13/2020. Expert Witness Designation–Defendant deadline 2/13/2020. Discovery due by 4/27/2020. Stipulation Deadline 6/2/2020. Motion in Limine deadline 6/2/2020. Motions in Limine Response Deadline 6/9/2020. <b>Final Pretrial Conference set for 6/16/2020 01:30 PM in Judge Rankin Chambers (Room No. 2204) before Honorable Kelly H Rankin. Jury Trial (5 Days/Stacked #1) set for 7/6/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b> (Court Staff, sjlg) Modified text on 11/21/2019 (Court Staff, szf). (Entered: 10/22/2019)
10/22/2019		Set/Reset Deadlines/Hearings: <b>Jury Trial set for 7/6/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 7/7/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 7/8/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 7/9/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 7/10/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b> (Court Staff, szf) (Entered: 11/21/2019)
10/28/2019	<u>14</u>	CORPORATE DISCLOSURE filed by Safeway Stores 46 Inc, identifying Corporate Parent Albertsons Companies, Inc. for Safeway Stores 46 Inc.. (Hahn, Frederick) (Entered: 10/28/2019)
01/14/2020	<u>15</u>	Designation of Expert Witnesses by Plaintiff Safeway Stores 46 Inc. (Attachments: # <u>1</u> Exhibit A) (Hahn, Frederick) (Entered: 01/14/2020)
01/16/2020	<u>16</u>	NOTICE of Attorney Appearance by Sean M Larson on behalf of WY Plaza LC (Larson, Sean) (Entered: 01/16/2020)
04/24/2020	<u>17</u>	E–FILING ERROR – DOCUMENT TO BE REFILED. <del>STIPULATION re <u>13</u> Initial Pretrial Order,,, by Safeway Stores 46 Inc. (Hahn, Frederick) Modified docket text, document removed on 4/27/2020 (Court Staff, szf). (Entered: 04/24/2020)</del>
04/27/2020	<u>18</u>	MOTION to Amend/Correct <u>13</u> Initial Pretrial Order,,, <i>Stipulated</i> filed by Plaintiff Safeway Stores 46 Inc. (Attachments: # <u>1</u> Proposed Order)(Hahn, Frederick) (Entered: 04/27/2020)
04/28/2020	<u>19</u>	

		<p>ORDER by the Honorable Kelly H Rankin granting <u>18</u> Stipulated MOTION to Amend/Correct <u>13</u> Initial Pretrial Order. Motions filing deadline 7/27/2020. Motion response deadline 8/11/2020. <b>Dispositive Motions Hearing set for 9/30/2020 01:30 PM via ZOOM VIDEO before Honorable Kelly H Rankin.</b> Expert Witness Designation–Plaintiff deadline 1/13/2020. Expert Witness Designation–Defendant deadline 2/13/2020. Listing of Other Witness deadline 06/15/2020. Discovery due by 7/27/2020. Stipulation Deadline 10/8/2020. Motion in Limine deadline 10/8/2020. Motion in Limine Response deadline 10/15/2020. <b>Final Pretrial Conference set for 10/22/2020 01:30 PM in Judge Rankin Chambers (Room No. 2204) before Honorable Kelly H Rankin. Jury Trial set for 11/16/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b>(Court Staff, sjlg) Modified text on 5/8/2020 (Court Staff, sjlg). Modified docket text on 9/11/2020 (Court Staff, smxb). (Entered: 04/28/2020)</p>
04/28/2020		<p>Set/Reset Deadlines/Hearings: Other Fact Witness Deadline 6/15/2020 Motion in Limine deadline 10/8/2020. Motions in Limine Response Deadline 10/15/2020. (Court Staff, sjlg) (Entered: 04/28/2020)</p>
04/28/2020		<p>Set/Reset Deadlines/Hearings: <b>Dispositive Motions Hearing set for 9/30/2020 01:30 PM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b> (Court Staff, sjlg) (Entered: 05/08/2020)</p>
04/28/2020		<p>Set/Reset Deadlines/Hearings: <b>Jury Trial set for 11/16/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 11/17/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 11/18/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 11/19/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin. Jury Trial set for 11/20/2020 09:00 AM in Cheyenne Courtroom No. 3 (Room No. 2104) before Honorable Kelly H Rankin.</b> (Court Staff, szf) (Entered: 08/28/2020)</p>
06/15/2020	<u>20</u>	<p>Designation of Other Witnesses by Defendant WY Plaza LC. (Larson, Sean) (Entered: 06/15/2020)</p>
07/27/2020	<u>21</u>	<p>Stipulated MOTION to Continue (Non–Dispositive). Requesting continuance of Discovery Deadline and Dispositive Motions Deadline filed by Defendant WY Plaza LC. (Attachments: # <u>1</u> Proposed Order)(Buckley, Lucas) (Entered: 07/27/2020)</p>
07/28/2020	<u>22</u>	<p>ORDER by the Honorable Kelly H Rankin granting <u>21</u> Motion to Continue (Non–Dispositive). The Discovery Cutoff deadline set for July 27, 2020 is hereby VACATED and is now set for August 14, 2020. The Dispositive Motions and Daubert Challenges deadline set for July 27, 2020 is hereby VACATED and is now set for August 21, 2020. The response deadline set for August 11, 2020 is hereby VACATED and is now set for September 4, 2020. All other dates and deadlines remain as previously set. (Court Staff, sjgc) (Entered: 07/28/2020)</p>
08/21/2020	<u>23</u>	<p>MOTION for Summary Judgment, filed by Plaintiff Safeway Stores 46 Inc. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of John F. Kurtz, # <u>3</u> Exhibit 1 to Dec. of John F. Kurtz, # <u>4</u> Exhibit 2 to Dec. of John F. Kurtz, # <u>5</u></p>

		Exhibit 3 to Dec. of John F. Kurtz, # <u>6</u> Exhibit 4 to Dec. of John F. Kurtz, # <u>7</u> Declaration of Lynn Miller, # <u>8</u> Exhibit 1 to Dec. of Lynn Miller, # <u>9</u> Exhibit 2 to Dec. of Lynn Miller, # <u>10</u> Exhibit 3 to Dec. of Lynn Miller, # <u>11</u> Exhibit 4 to Dec. of Lynn Miller, # <u>12</u> Exhibit 5 to Dec. of Lynn Miller, # <u>13</u> Exhibit 6 to Dec. of Lynn Miller, # <u>14</u> Exhibit 7 to Dec. of Lynn Miller, # <u>15</u> Exhibit 8 to Dec. of Lynn Miller, # <u>16</u> Exhibit 9 to Dec. of Lynn Miller, # <u>17</u> Exhibit 10 to Dec. of Lynn Miller, # <u>18</u> Exhibit 11 to Dec. of Lynn Miller, # <u>19</u> Exhibit 12 to Dec. of Lynn Miller, # <u>20</u> Exhibit 13 to Dec. of Lynn Miller, # <u>21</u> Exhibit 14 to Dec. of Lynn Miller, # <u>22</u> Exhibit 15 to Dec. of Lynn Miller, # <u>23</u> Exhibit 16 to Dec. of Lynn Miller, # <u>24</u> Declaration of Michael Dingel, # <u>25</u> Exhibit 1 to Dec. of Michael Dingel, # <u>26</u> Exhibit 2 to Dec. of Michael Dingel, # <u>27</u> Declaration of Rhet Hulbert, # <u>28</u> Exhibit 1 to Dec. of Rhet Hulbert, # <u>29</u> Declaration of Thomas Hanavan, # <u>30</u> Exhibit 1 to Dec. of Thomas Hanavan, # <u>31</u> Exhibit 2 to Dec. of Thomas Hanavan, # <u>32</u> Exhibit 3 to Dec. of Thomas Hanavan)(Hahn, Frederick) (Entered: 08/21/2020)
08/21/2020	<u>24</u>	MOTION for Summary Judgment, filed by Defendant WY Plaza LC. (Buckley, Lucas) (Entered: 08/21/2020)
08/21/2020	<u>25</u>	MEMORANDUM in Support of <u>24</u> Motion for Summary Judgment filed by Defendant WY Plaza LC. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9) (Buckley, Lucas) (Entered: 08/21/2020)
08/31/2020	<u>26</u>	RETURN of Subpoena <i>Duces Tecum</i> by Defendant WY Plaza LC upon Alberston's LLC on 08/21/2020. (Larson, Sean) (Entered: 08/31/2020)
09/04/2020	<u>27</u>	MEMORANDUM in Opposition to <u>23</u> MOTION for Summary Judgment, filed by Defendant WY Plaza LC. (Buckley, Lucas) (Entered: 09/04/2020)
09/04/2020	<u>28</u>	RESPONSE to <u>24</u> Motion for Summary Judgment filed by Plaintiff Safeway Stores 46 Inc. (Hahn, Frederick) (Entered: 09/04/2020)
09/11/2020	<u>29</u>	REPLY BRIEF re <u>23</u> Motion for Summary Judgment filed by Plaintiff Safeway Stores 46 Inc. (Hahn, Frederick) Modified on 9/11/2020 (Court Staff, szf). (Entered: 09/11/2020)
09/30/2020	<u>30</u>	<b>MINUTES for proceedings held before Honorable Kelly H Rankin: Motion Hearing held on 9/30/2020. (Court Reporter Jan Davis.) (Court Staff, smxb)</b> (Entered: 09/30/2020)
10/08/2020	<u>31</u>	STIPULATION OF FACTS filed by Safeway Stores 46 Inc. (Hahn, Frederick) (Entered: 10/08/2020)
10/20/2020	<u>32</u>	ORDER Denying <u>23</u> Motion for Summary Judgment and Granting <u>24</u> Motion for Summary Judgment by the Honorable Kelly H. Rankin. Case terminated on October 20, 2020.(Court Staff, szf) (Entered: 10/20/2020)
11/11/2020	<u>33</u>	NOTICE OF APPEAL as to <u>32</u> Order on Motion for Summary Judgment, filed by Plaintiff Safeway Stores 46 Inc. (Hahn, Frederick) (Entered: 11/11/2020)
11/12/2020	<u>34</u>	Preliminary Record of appeal sent to USCA and counsel re <u>33</u> Notice of Appeal (Attorney) <b>The procedures and appeals packet may be obtained from our website at <a href="http://www.wyd.uscourts.gov">www.wyd.uscourts.gov</a></b> (Attachments: # <u>1</u> Preliminary Record on Appeal Including Notice of Appeal) (Court Staff, stbd) (Entered: 11/12/2020)

11/12/2020	<u>35</u>		USCA Appeal Fees received \$ 505 receipt number CHY033883 re <u>33</u> Notice of Appeal filed by Safeway Stores 46 Inc (Court Staff, sbh) (Entered: 11/12/2020)
11/12/2020	<u>36</u>		Appeal Number <b>20-8064</b> received from USCA for <u>33</u> Notice of Appeal (Attorney) filed by Safeway Stores 46 Inc. Fee is due by 11/27/2020 for Safeway Stores 46 Inc. Docketing statement due 11/27/2020 for Safeway Stores 46 Inc. Transcript order form due 11/27/2020 for Safeway Stores 46 Inc. Notice of appearance due on 11/27/2020 for Safeway Stores 46 Inc and WY Plaza LC. (Court Staff, stbd) (Entered: 11/12/2020)
11/16/2020	<u>37</u>		<b>JUDGMENT in favor of Defendant by the Honorable Margaret Botkins, Clerk of Court. Judgment is entered on behalf of the Defendant and the case is hereby DISMISSED WITH PREJUDICE.</b> (Court Staff, szf) (Entered: 11/16/2020)
11/23/2020	<u>38</u>		NOTICE OF AMENDED APPEAL as to <u>33</u> Notice of Appeal (Attorney) by Plaintiff Safeway Stores 46 Inc. (Hahn, Frederick) (Entered: 11/23/2020)



FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

2020 NOV 16 AM 9:13

MARGARET BOTKINS, CLERK  
CHEYENNE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

SAFEWAY STORES 46, INC.,

Plaintiff,

vs.

WY PLAZA, L.C.,

Defendants.

Case No. 19-CV-143-R

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**JUDGMENT IN A CIVIL ACTION**

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Pursuant to the Order Denying Plaintiff's Motion for Summary Judgment and Granting Defendant's Motion for Summary Judgment entered by the Court on October 20, 2020, the Court hereby orders that all of Plaintiffs' claims be dismissed with prejudice.

THEREFORE, Judgment is entered on behalf of the Defendant and the case is hereby DISMISSED WITH PREJUDICE.

Dated this 16<sup>th</sup> day of November, 2020.

  
\_\_\_\_\_  
*Clerk of Court or Deputy Clerk*

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

SAFEWAY STORES 46, INC.,

Plaintiff

vs.

WY PLAZA, L.C.,

Defendant

**CASE NO. 19-CV-143-R**

AMENDED NOTICE OF APPEAL


Notice is hereby given that Plaintiff Safeway Stores 46, Inc., hereby files this Amended Notice of Appeal to the United States Court of Appeals for the Tenth Circuit from the Judgment



in a Civil Action [Dkt. 37], which was filed on November 16, 2020, after Plaintiff Safeway Stores 46, Inc. filed the Notice of Appeal [Dkt. 33] on November 11, 2020, appealing from the Order Denying Plaintiff's Motion for Summary Judgment [Dkt. 23] and Granting Defendant's Motion for Summary Judgment [Dkt. 25] dated October 18, 2020 and filed on October 20, 2020 as Dkt. 32.

DATED THIS 23rd day of November, 2020.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By   
FREDERICK J. HAHN, III,  
Wyoming State Bar No. 6-4190

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23rd day of November, 2020, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Lucas Buckley	<input type="checkbox"/> U.S. Mail, postage prepaid
HATHAWAY & KUNZ, LLP	<input type="checkbox"/> Hand Delivery
P.O. Box 1208	<input type="checkbox"/> Overnight Mail
Cheyenne, WY 82003-1208	<input type="checkbox"/> Facsimile: (307) 634-0985
	<input checked="" type="checkbox"/> E-mail: <a href="mailto:lbuckley@hkwyolaw.com">lbuckley@hkwyolaw.com</a>

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*/s/ Frederick J. Hahn, III*  
 FREDERICK J. HAHN, III